

**Amendments to the Drawings:**

The attached sheets of drawings include changes to Figures 3-5.

Attachment: Drawing Replacement Sheets

## **REMARKS/ARGUMENTS**

### **Claim Amendments**

The Applicant has amended claim 15. Accordingly, claims 1-23 are pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

### **Examiner Objections – Drawings**

The Drawings were objected to because Figures 3-5 show blocks and circles with no description or legends. A correction to the drawing is shown on the enclosed sheet. The Examiner's approval of the drawing change is respectfully requested.

The drawings were objected to because the character of the lines, numbers and letters were not uniformly thick and well defined, clean, durable, and black. In response, the Applicant is submitting "formal" replacement sheets. The Examiner's approval of these drawings is respectfully requested.

### **Examiner Objections - Claims**

Claim 15 was objected to because of informalities. The Applicant appreciates the Examiner's thorough review of the claims. The Applicant has amended the claim as suggested by the Examiner in order to correct the informalities. The Examiner's consideration of the amended claims is respectfully requested.

### **Claim Rejections – 35 U.S.C. § 102(b)**

Claims 1-3 and 14-15 stand rejected under 35 U.S.C. 102(b) as being anticipated by Kawakami et al (US PGPub No. 2002/0136163). The Applicant respectfully traverses the rejection of these claims.

The Applicant respectfully directs the Examiner's attention to claim 1:

1. (Previously Presented) A method of controlling a queue buffer arranged to queue data units received over a communication network, comprising:

invoking a congestion notification procedure under a predetermined condition, wherein said congestion notification procedure comprises

determining whether one or more of said queued data units contains a predetermined information,  
performing a congestion notification with respect to one or more queued data units if no queued data units contain said predetermined information, and  
preventing a performance of a congestion notification at least with respect to said queued data units containing said predetermined information and belonging to a same flow as said queued data units. (emphasis added)

The Applicant respectfully submits that Kawakami does not disclose all the elements of claim 1 and therefore Kawakami does not anticipate the Applicant's independent claims.

The Applicant's present invention extends congestion notification procedures and control procedure and functionality is added to conditionally disable congestion notification and control. A sender determines certain conditions for when \*no\* congestion notification (and control) shall be performed. This can depend on flow information, higher layer information or application information. In these cases a "predetermined congestion notification prevention information" is included in data packets.

A network node performs a congestion notification procedure based on congestion levels (e.g., congestion condition (A) below). However, if it determines that there are data packets with "predetermined information" (e.g., predetermined congestion notification prevention information) in the buffers the network node does not perform the congestion notification procedure.

The Kawakami reference describes one form of congestion notification and control procedure. Kawakami is concerned with congestion notification and control in general. This process typically operates as follows:

(A) at a network node a load level is determined. If it exceeds certain thresholds a "congestion" is declared (note, there may be different "levels of congestion");

(B) once congestion is determined a congestion notification signal is sent to traffic sources, in which the signal contributes to the traffic load (and thus more congestion); and

(C) the notified traffic sources reduce the level (and thus reduce the amount of congestion).

The Applicant has reviewed the referenced portions of Kawakami that are used to reject the limitations of claim 1. For instance, the cited portion of Kawakami that is used to reject the limitation "...the congestion notification is based on a condition..." is not the condition of an exception being made based on predetermined information. The condition that Kawakami refers to (par. 33, lines 5-9; par. 80, lines 1-6) is the condition that congestion actually exists (see (A) above). It is not the condition of when an exception shall be made based on predetermined information, which is the limitation recited in claim 1. The (A) condition of Kawakami is comparable to the Applicant's limitation regarding invocation of a congestion procedure based on the predetermined condition. However the Applicant provides an additional condition; the data units are checked to see whether they contain any predetermined information.

Furthermore, the steps of performing a congestion notification and preventing a performance are rejected citing paragraph 78 and 24, respectively, of the Kawakami reference. The Applicant has reviewed the cited portion of Kawakami and respectfully submits that paragraphs 78 and 24 do not discuss pre-determined conditions. The cited portion discloses determining to which senders the notification is to be sent. It is common, in a congestion notification procedure to send a congestion indication to those sources, which contribute to the load which is a response to congestion, not a response to detected pre-determined condition information. This being the case, the Applicant respectfully submits that the burden of a prima facie case of anticipation has not been met regarding independent claim 1 and claim 14 which recite the above limitations.

Claims 2-3 and 15 depend from independent claims 1 and 14 and recite further limitations in combination with the novel elements of claims 1 and 14. Therefore, the allowance of claims 1-3 and 14-15 is respectfully requested.

### **Claim Rejections – 35 U.S.C. § 103 (a)**

Claims 5, 7-9, 13, 17, 19-21 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kawakami et al in view of Lym, et al. (US PGPub No 2004/0093453). The Applicant respectfully traverses the rejection of these claims.

“...[t]he prior art reference (or references when combined) must teach or suggest all of the claim limitations (MPEP 2143). In that regard, the Applicant respectfully submits that the Examiner’s two references fail to teach or suggest each and every element of the presently pending independent claims. As noted above Kawakami fails to disclose the limitations regarding checking for pre-determined information and the steps of performing a congestion notification and preventing a performance. The Lym reference fails to provide these limitations missing from the Kawakami reference and found in claims 1 and 14. Claims 5, 7-9, 13, 17, 19-21 and 25 depend from independent claims 1 and 14 respectively and recite further limitations in combination with the novel elements of claims 1 and 14. Therefore, the allowance of claims 5, 7-9, 13, 17, 19-21 and 25 is respectfully requested.

Claims 6, 12, 18 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kawakami et al in view of Lym, et al. as applied to claims 5 and 17 above, and further in view of Thoo et al (EP No 0,955,749 A1). The Applicant respectfully traverses the rejection of these claims

The Lym and Thoo references fail to provide the limitations that are recited in independent claims 1 and 14, as discussed in the paragraphs above. Claims 6, 12, 18 and 24 depend from independent claims 1 and 14 respectively and recite further limitations in combination with the novel elements of claims 1 and 14. Therefore, the allowance of claims 56, 12, 18 and 24 is respectfully requested..

Claims 10-11 and 22-23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kawakami et al in view of Lym, et al. as applied to claims 5 and 17

above, and further in view of Brothers et al (US Patent No 6,822,955). The Applicant respectfully traverses the rejection of these claims.

As noted previously the Kawakami and Lym references fail to teach particular recited elements/limitations of the independent claims. Further, the Brother reference also fails to provide the particular limitations that are taught in claims 1 and 14. Claims 10-11 and 22-23 depend from amended claims 1 and 14 respectively and recite further limitations in combination with the novel elements of claims 1 and 14. Therefore, the allowance of claims 10-11 and 22-23 is respectfully requested.

#### **Prior Art Not Relied Upon**

In paragraph 1 on page 10 of the Office Action, the Examiner stated that the prior art made of record and not relied upon is considered pertinent to the Applicant's disclosure.

### **CONCLUSION**

In view of the foregoing remarks, the Applicant believes all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for all pending claims.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,



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